

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

EVAN AMBER OVERTON AND JOHN)	
KEENAN OVERTON, CO-)	
ADMINISTRATORS FOR THE ESTATE)	
OF EZRA MICHAEL OVERTON,)	
DECEASED,)	
)	CIVIL ACTION FILE NO.
Plaintiffs,)	
)	1:19-cv-751
v.)	
)	
FISHER-PRICE, INC.;)	
)	
AND)	
)	
MATTEL, INC.)	
)	
Defendants.)	
)	

**PLAINTIFFS' AMENDED RULE 26(a)(3) PRETRIAL DISCLOSURES, LIST OF
WITNESSES AND LIST OF EXHIBITS**

Plaintiffs Evan Amber Overton and John Keenan Overton, Co-Administrators for the Estate of Ezra Overton, Deceased, submit the following:

(i). Witnesses not previously provided in initial and expert designations:

Witness

1	Evan Overton John Keenan Overton 2121 North Westmoreland Street Arlington, VA 22213	Expect to present
2	Leah Dowdell 2121 North Westmoreland Street Arlington, VA 22213	Expect to present.
3	Fred Dowdell 2121 North Westmoreland Street Arlington, VA 22213	Expect to present

4	Gary Deegear	May call if the need arises
5	Joel A. Taft Fisher-Price, Inc.	Expect to present
6	Roy Benaroch, M.D. - lay testimony re: notice of defect	Expect to present
7	Experts designated by plaintiffs pursuant to Rule 26(a)(2)	Expect to present
8	<p>Witnesses regarding other incidents:</p> <ul style="list-style-type: none"> a. Brittany Ledford b. Katherine Albers 4979 Karen Ray Drive Antioch, TN 37013 c. Sarah Salustro 6806 Treebine Avenue Citrus Heights, CA 95621 d. Kristin Contino 117 Crossfield Rd. King of Prussia, PA 19406 e. Amanda Lozzio 744 Oak Street Lima, OH 45804 f. Lisa Fasano 340 Elmeer Ave. Metairie, LA 70005 g. Emily McDonald 30340 Avenida Palmera Homeland, CA 92548 h. Cassie Alford 109 Maple Ave. E Satsuma, AL 36572 i. Fatima Beig 2295 E. 29th Street Brooklyn, NY 11229 j. Sherry Vasquez PO Box 2983 Twin Falls, ID 83303 k. Kristen Cary 4023 Green Gables Dr. Ridgely, WVA 26753 l. Jennifer Bland 	May offer

	<p>849 Cathedral Dr. Virginia Beach, VA 23455</p> <p>m. Jennie Ready 3446 Westham Ln. Toano, VA 23168</p> <p>n. Kristen Boivin 31 Locust Street Winthrop, MA 02152</p> <p>o. Renee Sharp 355 College Street, Apt. 1B Dayton, VA 22821</p> <p>p. Heidi Whitacre 123 Brookland Court Winchester, VA 22602</p> <p>q. Kiara Mero 1032 State Fair Blvd. Syracuse, NY 13209</p> <p>r. Megan Rapp 61920 Scott Street South Bend, IN 46614</p> <p>s. Sara Itzkowitz 1213 E. 13th Street Brooklyn, NY 11230</p> <p>t. Lela Graf 6372 B Nueku Street Kailua, HI 96734</p> <p>u. Courtney Lewis 310 N. 7th Street Indiana, PA 15701</p> <p>v. Nicole Egan 15 Crown Rd. Wappingers Falls, NY 12590</p> <p>w. Karen Loggia 3509 W. 101st Street Leawood, KS 66206</p> <p>x. Dawn Collins 769 North Centre Street Pottsville, PA 17901</p> <p>y. Ram Vempati 1063 Morris Ave., Blg. 19, Apt. 106 Sunnyville, CA 94089</p> <p>z. Annie Thrush 718 North Court Ave. Alma, MI 48801</p>	
9	<p>Fisher-Price, Inc. Mattel, Inc.</p>	May call if the need arises

10	Vivian Becker	May call if the need arises
11	Nola Overton	May call if the need arises
12	Michael Overton Tonya Overton	May call if the need arises
13	Michelle Schepis , Office of the Chief Medical Examiner, Northern District	May call if the need arises
14	Laura Hackfield 8246 The Midway Annandale, VA 22003	May call if the need arises
15	Jocelyn Posthumus , M.D. Office of the Chief Medical Examiner, Northern Region	May call if the need arises
16	Jenny Zygota	

(ii). **Designation of witnesses Plaintiffs expect to present by deposition**

1	Fisher-Price, Inc. Mattel, Inc.	To be taken stenographically on January 22-24, 2020.
2	Catherine Pilarz Fisher-Price, Inc.	To be taken stenographically on January 22-24, 2020.
3	Michael Steinwachs Fisher-Price, Inc.	To be taken stenographically on January 22-24, 2020.
4	Linda Chapman Fisher-Price, Inc.	To be taken stenographically on January 22-24, 2020.
5	Inez M. Tenenbaum	
6	Ronda Strauss	

(iii). **Identification of each document or other exhibit** [Note: all documents identified by Bates Number includes the unredacted version produced pursuant to Court Order]

1	The Rock 'n Play Sleeper in which baby Overton died	Expect to offer
2	Warning Label from the Sleeper	Expect to offer
3	All alternative Warning Labels created by Defendants, including all warning labels for all model Rock 'n Plays and for all countries, including but not limited to: OV000438-448, OV000475-489, 1020, 1021, 2034-2041	May offer if need arises

4	<p>Photographs and videos of baby Overton produced in discovery, including the last photograph taken of him alive (See Exhibit 11 to Evan and Keenan Overton depositions) and the following:</p> <p>IMG_1257 IMG_3081 IMG_3104 IMG_3180 IMG_3268 IMG_3292 IMG_3313 IMG_3411 IMG_3440 IMG_3455 IMG_3459 IMG_3597 IMG_3621 IMG_3716 IMG_3733 IMG_3740 IMG_3742 IMG_3745 IMG_3771 IMG_3795 IMG_3796</p>	Expect to offer
5	Photographs of the subject sleeper	Expect to offer
6	Prototype BGB20 Rock 'n Play Sleeper	Expect to offer
7	Photograph of subject Sleeper next to prototype Sleeper	Expect to offer
8	<p>Videos and photographs of babies standing in RNP Sleeper while restrained and unrestrained:</p> <p>FPI_002209 in Goodwin videos produced by Defendants in response to December 13, 2020 Order granting Motion to Compel, including OV375-399, 569-575, 1002-1019, 2056-2081, 2216-2488, 25493-494, 2550-26434, 3055-3087, 3248-3265, 7571-7644, 12633-13623, 26841-27852, and 27855-28073.</p>	Expect to offer
9	<p>Unredacted survey responses produced by Defendants:</p> <p>OV000675-680 OV000681-686 OV000687-692 OV000699-704 OV000705-710 OV000711-716 OV000717-722 OV000723-728 OV000729-734 OV000735-740</p>	Expect to offer

	OV000741-746 OV000747-752 OV000765-770 OV000771-778 OV000779-784 OV000791-796 OV000797-804 OV000805-811 OV000824-839 OV000866-871 OV000902-908 OV000915-920 OV000921-926 OV000927-932 OV000933-938 OV000951-956 OV000957-962 OV000963-968 OV000969-974 OV000975-980 OV0002089-2148 OV0003365-3500 OV0003376-3378 OV0003379-3384 OV0003385-3390 OV0003391-3396 OV0003409-3414 OV0003415-3420 OV0003421-3426 OV0003427-3432 OV0003433-3438	
10	All emails referencing meetings and communications with and by Gary Deegear, M.D. during the product concept through development stage, including FPI_000243-245, FPI_000555-557 and 559-560, FPI_000565-566, and FPI_000568, OV000243-245, OV000555-568, 3038, 3042	Expect to offer
11	Communications by and between Roy Benaroch and defendants or concerning Roy Benaroch, including: OV000540, 569, 642-644, 2895, 3055, 3266-3272.	Expect to offer
12	All Hazard Analysis and Safety Audit Reports related to the RNP, including – OV000551-552, 576, 577-583, 584-586, 587-589, 590-594, 596, 3034-3035, 3122-3142.	Expect to offer
13	The following documents produced by defendants showing notice of infant fatal or near suffocation/ asphyxiation and of infant pushing up with feet, getting out of position or	Expect to offer

	<p>falling/climbing out of a RNP Sleeper while restrained and a summary thereof:</p> <p>OV00012700-701</p> <p>OV0002209</p> <p>OV00024705-707</p> <p>OV00024705-24809</p> <p>OV00026841-866</p> <p>OV00026885-902</p> <p>OV00026903-907</p> <p>OV00027066-116</p> <p>OV00027541-546</p> <p>OV00027802-803</p> <p>OV00027819-820</p> <p>OV00027826-827</p> <p>OV00027830-831</p> <p>OV00027835-836</p> <p>OV00027843-844</p> <p>OV00027849-850</p> <p>OV00027851</p> <p>OV00027852</p> <p>OV00027857-859</p> <p>OV00027861-863</p> <p>OV00027864-865</p> <p>OV00027869</p> <p>OV00027878-880</p> <p>OV00027888</p> <p>OV00027893-894</p> <p>OV00027909-914</p> <p>OV00027916-918</p> <p>OV00027931-933</p> <p>OV00027948-949</p> <p>OV00027966-967</p> <p>OV00027970-991</p> <p>OV00027972-975</p> <p>OV00027976-977</p> <p>OV00027983-984</p> <p>OV00027993</p> <p>OV00027994-996</p> <p>OV0002802-804</p> <p>OV00028013-015</p> <p>OV00028019-020</p> <p>OV00028021-022</p> <p>OV00028023-024</p> <p>OV00028036-037</p> <p>OV00028042-044</p> <p>OV00028049-051</p>	
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	OV00028054-055 OV00028056-057 OV00028058-059 OV00028061-063 OV00028064-065 OV00028066-068 OV00028072-073	
14	Quality and Safety Operating Procedure for RNP Sleeper: OV0003143-3152	Expect to offer
15	Products Requirements document for RNP Sleeper: OV0003153-3187	Expect to offer
16	Patent Applications for Rock 'n Play Sleeper, including: FPI_000041-70, OV0003088 et seq.	Expect to offer
17	Communications by and between or concerning defendants and Royal College of Midwives, including – OV000657-660, 3361-3364	Expect to offer
18	Communications by and between or concerning defendants and Health Canada, including: OV0001022-1040, 2613-2653, 2654-2659, 3320-3322, 3323-3327, 3328-3330, 3331-3334, 3335-3338, 3342-3343, and 12566-12568	Expect to offer
19	Communications by and between or concerning defendants and Queensland, Australia: OV0003339-3341, 3344-3349, 3350-3356, and 3357-3360	Expect to offer
20	Documents regarding and concerning on-site testing with babies in a RNP sleeper identified by Defendants in Response to RFPD Nos. 15, 18, 19, 27 and 35.	Expect to offer
21	Documents regarding and concerning in-home pilot testing with babies in a RNP sleeper identified by Defendants in Response to RFPD Nos. 15, 18, 19, 27 and 35 and OV000-3365-3449	Expect to offer
22	Documents regarding and concerning Defendants' research of infant rollover, infant positioning, infant fit and more as referenced in Defendants' Answer to Interrogatory No. 5 and as identified in Bates # ranges above.	Expect to offer
23	All communications by and between Defendants and the Consumer Products Safety Commission regarding and concerning the Rock 'n Play Sleeper, including but not limited to: OV0001041-1044, 19576-19583	Expect to offer
24	RNP Sleeper Brochures, including but not limited to: OV0001890-1913, 1922-1933,	Expect to offer
25	All documents regarding and concerning Defendants' attempts to influence standards pertaining to the RNP Sleeper, including: OV0005227- 5320, 5327-5333, 5370-5376, 5401-5412, 5461-5470 and 7645-8222	May offer if need arises
26	Snugapuppy Model: OV00012596-597	May offer if need

		arises
27	My Little Snagabunny Model: OV000600-601	May offer if need arises
28	Safari Dreams Model: OV00012622-623	May offer if need arises
29	Sweet Surroundings Monkey Deluxe Auto Model: OV00012626-627	May offer if need arises
30	RNP Sleeper packaging – indicating “designed for all-night sleep,” “baby can sleep at a comfortable incline all night long,” “Extra-plush fabrics”	Expect to offer
31	Exhibits from the Rule 30(b)(6) deposition of defendants, which have not yet occurred.	Expect to offer
32	Fisher-Price webpage - A Design Story – Linda Chapman	Expect to offer
33	Fisher-Price webpage – Research is at the Heart of Development	Expect to offer
34	Fisher-Price webpage - Listening to Consumers	Expect to offer
35	Mattel OV12566 - OV12568	Expect to offer
36	ASTM 2194-07	Expect to offer
37	Mattel OV12547- OV12554	Expect to offer
38	Mattel OV1547 – OV1561	Expect to offer
39	Safety Standards for Bassinets and Cradles: Notice of Proposed Rule Making. Source: Regulations.gov	Expect to offer
40	Mattel OV0002087	Expect to offer
41	Fisher-Price webpage Safari Dream Rock ‘N Play	Expect to offer
42	Mattel OV0000568	Expect to offer
43	RNP Sleeper box actual sample box	Expect to offer
44	Article on Influence of Head-Neck Posture on Airflow and Pulmonary Mechanics in Preterm Neonates. F. Reitere, MD, Soraya Abbasi, MD, and Vinod K. Bhutani, MD	Expect to offer
45	<div> <div>Mattel-OV-0000041-0000070</div> <div>Mattel-OV-0000071-0000077</div> <div>Mattel-OV-0000089-0000105</div> <div>Mattel-OV-0000115-0000180</div> <div>Mattel-OV-0000243-0000245</div> <div>Mattel-OV-0000246-0000279</div> <div>Mattel-OV-0000296-0000303</div> <div>Mattel-OV-0000336-0000338</div> <div>Mattel-OV-0000339-0000347</div> <div>Mattel-OV-0000348-0000356</div> <div>Mattel-OV-0000357-0000360</div> <div>Mattel-OV-0000362-0000368</div> <div>Mattel-OV-0000369</div> <div>Mattel-OV-0000370-0000374</div> <div>Mattel-OV-0000375</div> <div>Mattel-OV-0000377-0000399</div> </div>	May offer if need arises

	Mattel-OV-0000427		
	Mattel-OV-0000429-0000437		
	Mattel-OV-0000438-000048		
	Mattel-OV-0000446		
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	Mattel-OV-0000540		
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Respectfully submitted,

/s/ Michael G. Phelan

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CERTIFICATE OF SERVICE

I hereby certify that on February 20, 2020, I electronically transmitted the attached document to the Clerk's Office using CM/ECF System for filing and distribution to the following registered participants of the CM/ECF System:

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